

S.1082

District of Columbia Personal Protection Act (Introduced in Senate)

S 1082 IS

109th CONGRESS
1st Session
S. 1082

To restore Second Amendment rights in the District of Columbia.

IN THE SENATE OF THE UNITED STATES

May 19, 2005

Mrs. HUTCHISON (for herself, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BOND, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. CHAMBLISS, Mr. COBURN, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. ENSIGN, Mr. ENZI, Mr. HAGEL, Mr. HATCH, Mr. INHOFE, Mr. ISAKSON, Mr. KYL, Mr. LOTT, Ms. MURKOWSKI, Mr. NELSON of Nebraska, Mr. SESSIONS, Mr. SUNUNU, Mr. TALENT, Mr. THUNE, Mr. VITTER, Mr. SHELBY, Mr. DEMINT, and Mr. THOMAS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To restore Second Amendment rights in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'District of Columbia Personal Protection Act'.

SEC. 2. CONGRESSIONAL FINDINGS.

Congress finds the following:

- (1) The Second Amendment to the United States Constitution provides that the right of the people to keep and bear arms shall not be infringed.
- (2) The Second Amendment to the United States Constitution protects the rights of individuals, including those who are not members of a militia or engaged in military service or training, to keep and bear arms.

- (3) The law-abiding citizens of the District of Columbia are deprived by local laws of handguns, rifles, and shotguns that are commonly kept by law-abiding persons throughout the United States for sporting use and for lawful defense of their persons, homes, businesses, and families.
- (4) The District of Columbia has one of the highest per capita murder rates in the Nation, which may be attributed in part to local laws prohibiting possession of firearms by law-abiding persons who would otherwise be able to defend themselves and their loved ones in their own homes and businesses.
- (5) The Federal Gun Control Act of 1968, as amended by the Firearms Owners' Protection Act of 1986, and the Brady Handgun Violence Prevention Act of 1993, provide comprehensive Federal regulations applicable in the District of Columbia as elsewhere. In addition, existing District of Columbia criminal laws punish possession and illegal use of firearms by violent criminals and felons. Consequently, there is no need for local laws which only affect and disarm law-abiding citizens.
- (6) Legislation is required to correct the District of Columbia's law in order to restore the fundamental rights of its citizens under the Second Amendment to the United States Constitution and thereby enhance public safety.

SEC. 3. REFORM D.C. COUNCIL'S AUTHORITY TO RESTRICT FIREARMS.

Section 4 of the Act entitled 'An Act to prohibit the killing of wild birds and wild animals in the District of Columbia', approved June 30, 1906 (34 Stat. 809; section 1-303.43, D.C. Official Code) is amended by adding at the end the following: 'Nothing in this section or any other provision of law shall authorize, or shall be construed to permit, the Council, the Mayor, or any governmental or regulatory authority of the District of Columbia to prohibit, constructively prohibit, or unduly burden the ability of persons not prohibited from possessing firearms under Federal law from acquiring, possessing in their homes or businesses, or using for sporting, self-protection or other lawful purposes, any firearm neither prohibited by Federal law nor subject to the National Firearms Act. The District of Columbia shall not have authority to enact laws or regulations that discourage or eliminate the private ownership or use of firearms.'

SEC. 4. REPEAL D.C. SEMIAUTOMATIC BAN.

- (a) In General- Section 101(10) of the Firearms Control Regulations Act of 1975 (section 7-2501.01(10), D.C. Official Code) is amended to read as follows:
- '(10) 'Machine gun' means any firearm which shoots, is designed to shoot, or can be readily converted or restored to shoot automatically, more than 1 shot by a single function of the trigger, and includes the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in

converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.'

(b) Conforming Amendment to Provisions Setting Forth Criminal Penalties- Section 1(c) of the Act of July 8, 1932 (47 Stat. 651; section 22-4501(c), D.C. Official Code) is amended to read as follows:

`(c) `Machine gun', as used in this Act, has the meaning given such term in section 101(10) of the Firearms Control Regulations Act of 1975.'

SEC. 5. REPEAL REGISTRATION REQUIREMENT.

(a) Repeal of Requirement-

(1) IN GENERAL- Section 201(a) of the Firearms Control Regulations Act of 1975 (section 7-2502.01(a), D.C. Official Code) is amended by striking `any firearm, unless' and all that follows through paragraph (3) and inserting the following: `any firearm described in subsection (c).'

(2) DESCRIPTION OF FIREARMS REMAINING ILLEGAL- Section 201 of such Act (section 7-2502.01, D.C. Official Code) is amended by adding at the end the following new subsection:

`(c) A firearm described in this subsection is any of the following:

`(1) A sawed-off shotgun.

`(2) A machine gun.

`(3) A short-barreled rifle.'

(3) CONFORMING AMENDMENT- The heading of section 201 of such Act (section 7--2502.01, D.C. Official Code) is amended by striking `Registration requirements' and inserting `Firearm Possession'.

(b) Conforming Amendments to Firearms Control Regulations Act- The Firearms Control Regulations Act of 1975 is amended as follows:

(1) Sections 202 through 211 (section 7-2502.02 through 7-2502.11, D.C. Official Code) are repealed.

(2) Section 101 (section 7-2501.01, D.C. Official Code) is amended by striking paragraph (13).

(3) Section 401 (section 7-2504.01, D.C. Official Code) is amended--

(A) in subsection (a), by striking `the District;' and all that follows and inserting the following: `the District, except that a person may engage in hand loading, reloading, or custom loading of ammunition for firearms lawfully possessed under this Act.'; and
(B) in subsection (b), by striking `which are unregistrable under section 202' and inserting `which are prohibited under section 201'.

(4) Section 402 (section 7-2504.02, D.C. Official Code) is amended--

(A) in subsection (a), by striking `Any person eligible to register a firearm' and all that follows through `such business,' and inserting the following: `Any person not otherwise prohibited from possessing or receiving a firearm under Federal or District law, or from being licensed under section 923 of title 18, United States Code,'; and

(B) in subsection (b), by amending paragraph (1) to read as follows:

`(1) The applicant's name;'

(5) Section 403(b) (section 7-2504.03(b), D.C. Official Code) is amended by striking `registration certificate' and inserting `dealer's license'.

(6) Section 404(a)(3) (section 7-2504.04(a)(3)), D.C. Official Code) is amended--

(A) in subparagraph (B)(i), by striking `registration certificate number (if any) of the firearm,';

(B) in subparagraph (B)(iv), by striking `holding the registration certificate' and inserting `from whom it was received for repair';

(C) in subparagraph (C)(i), by striking `and registration certificate number (if any) of the firearm';

(D) in subparagraph (C)(ii), by striking `registration certificate number or';

(E) in subparagraph (D)(ii), by striking `or registration number'; and

(F) in subparagraph (E), by striking clause (iii) and redesignating clauses (iv) and (v) as clauses (iii) and (iv).

(7) Section 406(c) (section 7-2504.06(c), D.C. Official Code) is amended to read as follows:

`(c) Within 45 days of a decision becoming effective which is unfavorable to a licensee or to an applicant for a dealer's license, the licensee or application shall--

`(1) lawfully remove from the District all destructive devices in his inventory, or peaceably surrender to the Chief all destructive devices in his inventory in the manner provided in section 705; and

`(2) lawfully dispose, to himself or to another, any firearms and ammunition in his inventory.'.

(8) Section 407(b) (section 7-2504.07(b), D.C. Official Code) is amended by striking `would not be eligible' and all that follows and inserting `is prohibited from possessing or receiving a firearm under Federal or District law.'.

(9) Section 502 (section 7-2505.02, D.C. Official Code) is amended--

(A) by amending subsection (a) to read as follows:

`(a) Any person or organization not prohibited from possessing or receiving a firearm under Federal or District law may sell or otherwise transfer ammunition or any firearm, except those which are prohibited under section 201, to a licensed dealer.';

(B) by amending subsection (c) to read as follows:

`(c) Any licensed dealer may sell or otherwise transfer a firearm to any person or organization not otherwise prohibited from possessing or receiving such firearm under Federal or District law.';

(C) in subsection (d), by striking paragraphs (2) and (3); and

(D) by striking subsection (e).

(10) Section 704 (section 7-2507.04, D.C. Official Code) is amended--

- (A) in subsection (a), by striking `any registration certificate or' and inserting `a'; and
- (B) in subsection (b), by striking `registration certificate,'.
- (c) Other Conforming Amendments- Section 2(4) of the Illegal Firearm Sale and Distribution Strict Liability Act of 1992 (section 7--2531.01(2)(4), D.C. Official Code) is amended--
 - (1) in subparagraph (A), by striking `or ignoring proof of the purchaser's residence in the District of Columbia'; and
 - (2) in subparagraph (B), by striking `registration and'.

SEC. 6. REPEAL HANDGUN AMMUNITION BAN.

- (a) Definition of Restricted Pistol Bullet- Section 101(13a) of the Firearms Control Regulations Act of 1975 (section 7-2501.01(13a)) is amended to read as follows:
 - `(13)(A) `Restricted pistol bullet' means--
 - `(i) a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or
 - `(ii) a full-jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.
 - `(B) The term `restricted pistol bullet' does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Attorney General of the United States (pursuant to section 921(a)(17) of title 18, United States Code) finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Attorney General finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.'
- (b) Repeal of Ban- Section 601 of the Firearms Control Regulations Act of 1975 (section 7-2506.01, D.C. Official Code) is amended--
 - (1) by striking `ammunition' each place it appears (other than paragraph (4)) and inserting `restricted pistol bullets'; and
 - (2) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

SEC. 7. RESTORE RIGHT OF SELF DEFENSE IN THE HOME.

Section 702 of the Firearms Control Regulations Act of 1975 (section 7-2507.02, D.C. Official Code) is repealed.

SEC. 8. REMOVE CRIMINAL PENALTIES FOR POSSESSION OF UNREGISTERED FIREARMS.

(a) In General- Section 706 of the Firearms Control Regulations Act of 1975 (section 7-2507.06, D.C. Official Code) is amended--

(1) by striking `that:' and all that follows through `(1) A' and inserting `that a'; and

(2) by striking paragraph (2).

(b) Effective Date- The amendments made by subsection (a) shall apply with respect to violations occurring after the 60-day period which begins on the date of the enactment of this Act.

SEC. 9. REMOVE CRIMINAL PENALTIES FOR CARRYING A FIREARM IN ONE'S DWELLING OR OTHER PREMISES.

(a) In General- Section 4(a) of the Act of July 8, 1932 (47 Stat. 651; section 22-4504(a), D.C. Official Code) is amended--

(1) in the matter before paragraph (1), by striking `a pistol,' and inserting the following: `except in his dwelling house or place of business or on other land possessed by that person, whether loaded or unloaded, a firearm,'; and

(2) by striking `except that:' and all that follows through `(2) If the violation' and inserting `except that if the violation'.

(b) Treatment of Certain Exceptions- Section 5(a) of such Act (47 Stat. 651; section 22-4505(a), D.C. Official Code) is amended--

(1) by striking `pistol' each place it appears and inserting `firearm'; and

(2) by striking the period at the end and inserting the following: `, or to any person while carrying or transporting a firearm used in connection with an organized military activity, a target shoot, formal or informal target practice, sport shooting event, hunting, a firearms or hunter safety class, trapping, or a dog obedience training class or show, or the moving by a bona fide gun collector of part or all of the collector's gun collection from place to place for public or private exhibition while the person is engaged in, on the way to, or returning from that activity if each firearm is unloaded and carried in an enclosed case or an enclosed holster, or to any person carrying or transporting a firearm in compliance with sections 926A, 926B or 926C of title 18, United States Code.'.

(c) Effective Date- The amendments made by this section shall apply with respect to violations occurring after the 60-day period which begins on the date of the enactment of this Act.